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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|------------------------|------------------|
| 09/980,909 | 12/04/2001 | Tadashi Ono | 10059-402US(P23644-04) | 3856 |

570 7590 04/02/2004

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

EXAMINER

ACKUN, JACOB K

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3712

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DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/980,909

Applicant(s)

ONO ET AL.

Examiner

Jacob K. Ackun Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7,9-15 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 9-15 is/are allowed.
- 6) ☒ Claim(s) 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuchida in view of Worley and Meilhon. Tsuchida discloses most of the elements of the claims but lacks first and second heat shrinkable films and at least one pore. Worley is cited to show that it is conventional to construct heat shrunk battery packages from first and second heat shrinkable films. Meilhon is cited to show that providing pores 7-10 at sides and ends of a heat shrunk package to facilitate opening the same is conventional. It would have been obvious in view of Worley and Meilhon to provide the package of Tsuchida with the missing elements respectively, for the purpose of improving package performance, such as by facilitating the carrying of additional batteries and making the package easier to open.
3. Claims 7 and 9-15 are allowed.
4. Applicant's arguments filed on 01/22/04 have been fully considered but they are not persuasive. The subject matter encompassed in claim 17 is not considered to be patentable over the prior art of record. The applicants' own admission of prior art and the applied reference to Worley clearly indicate that it is conventional to package cylindrical batteries in first (inner) and second (outer) heat shrinkable films. The applicants do not appear to dispute this in the remarks. What the applicants are arguing is that it would have been unobvious in view of the prior art to provide the outer or second heat shrinkable film with a single pore or with two pores as recited in claims 17 and 18 respectively, because the prior art only discloses providing perforations in a film immediately adjacent packaged articles (As disclosed in the instant specification, the claimed pores provide mechanisms for opening the battery packages. The perforations of the

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prior art as described above perform the same function). According to applicants, the teaching of the prior art might only lead the artisan to provide perforations in an inner film, not the outer film of a two film package.

The applicants' arguments appear to be unreasonable in light of the fact that Worley clearly also teaches providing a mechanism for opening the outer film in the form of either a tear strip or tape positioned in the outer film in precisely the same location as recited for the pore of claim 17, ie, an end portion of a boundary between unit packages of batteries. Moreover, the prior art, including the applied reference to Meilhon, clearly recognizes that providing a tear strip in the form of perforations in any film is conventional, as apparently also recognized by applicants (note for example only, the comments at the bottom of page 7 of the applicants' response). Coincidentally the perforations in the Meilhon film are also in a boundary portion between packaged cylindrical articles, although not batteries in this case. The claimed pore or pores clearly read on a prior art perforation or perforations (note Meilhon at fig 2), which after all are for the same purpose as the pores, that is, to facilitate opening of the film. Based on the above, it appears to be quite clear that providing a pore in a film, whether an inner or outer film, and in the specific location recited in claim 17 is not the invention of the applicants.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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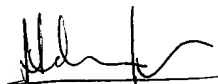
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob K. Ackun Jr. whose telephone number is (703)308-3867.

The examiner can normally be reached on Monday through Friday 8.30AM-5.00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703)308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jacob K. Ackun Jr.
Primary Examiner
Art Unit 3712

J.A.